

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GREGORY S. FOOTE,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 13-cv05489 BHS

REPORT AND RECOMMENDATION
ON UNOPPOSED MOTION FOR
REMAND PURSUANT TO
SENTENCE SIX OF 42 U.S.C. § 405(g)

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by *Mathews, Secretary of H.E.W. v. Weber*, 423 U.S. 261 (1976). This matter is before the Court on Defendant's Unopposed Motion to Remand Pursuant to Sentence Six, 42 U.S.C. § 405(g). (ECF No. 11)

After reviewing defendant's motion and the relevant record, the undersigned recommends that the Court grant defendant's motion, and remand this matter to the Commissioner, pursuant to sentence six of 42 U.S.C. § 405(g), because the recording of the

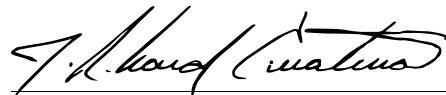
REPORT AND RECOMMENDATION ON
UNOPPOSED MOTION FOR REMAND
PURSUANT TO SENTENCE SIX OF 42 U.S.C. §
405(G) - 1

1 hearing held on 7/26/2011 is incomplete and thus good cause exists to support the request for
2 remand. This Court retains jurisdiction of this action pending further administrative development
3 of the record. *See* 42 U.S.C. § 405(g); *see also Shalala v. Schaefer*, 509 U.S. 292, 297-300
4 (1993).

5 On remand, the Appeals Council should remand the matter to an administrative law judge
6 who shall afford the plaintiff a *de novo* hearing. After remand, the Commissioner of Social
7 Security shall modify or affirm the Commissioner's findings of fact or the Commissioner's
8 decision, or both, and shall file with the Court any such additional or modified findings of fact
9 and decision. 42 U.S.C. § 405(g). If the outcome of the *de novo* hearing is not fully favorable to
10 plaintiff, the Commissioner shall file with the Court a transcript of the additional record and
11 testimony on which the Commissioner's action in modifying or affirming is based. *Id.* In
12 addition, plaintiff may seek judicial review by reinstating this case rather than by filing a new
13 complaint. If the outcome is favorable to plaintiff, the parties shall move this Court for entry of
14 Judgment.

15 Given the facts and the unopposed nature of the motion, the Court recommends that the
16 District Judge immediately approve this Report and Recommendation and order that the case be
17 **REMANDED** pursuant to sentence six of 42 U.S.C. § 405(g).

18 Dated this 18th day of November, 2013.

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21 J. Richard Creatura
22 United States Magistrate Judge
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